

Attorney Docket No. 10110752

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PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Art Unit: 2813

Title: METHOD FOR FABRICATING A VERTICAL NROM CELL

Date: September 9, 2004

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER  
A PRIOR PATENT

The owner, Nanya Technology Corporation, of 100% percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,670,246.

The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns. In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims

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canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

The Office is hereby authorized to charge the terminal disclaimer fee under 37 C.F.R. 1.20(d) to the credit card identified on the attached form PTO-2038.

Respectfully submitted,



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